

9-082A03C

RECORDATION NO. 10632A FILED 1425

MAR 23 1989 -2:20 PM

INTERSTATE COMMERCE COMMISSION

SH LEASING, INC.
C/O MGC LEASING CORPORATION
666 - 5TH AVENUE
NEW YORK, NEW YORK 10103
TEL. 212/581-2400
FAX 212/307-1002

Date 3/23/89
Fee \$13.00
ICC Washington, D.C.

March 21, 1989

MAR 23 2 20 PM '89
MOTOR OPERATING UNIT

Noreta R. McGee, Secretary
Interstate Commerce Commission
Washington, DC 20013

Re: Filing of Assignment and Assumption
Agreement Described Below

Dear Secretary:

I have enclosed an original and one notarized copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is an assignment and assumption of interest in a Lease and Security Agreement Trust Deed (and corresponding documents), a secondary document, dated March 22, 1989. The primary documents to which this is connected are recorded under Recordation No. 10637 and Recordation No. 10638. We request that this assignment be cross-indexed.

The names of and addresses of the parties to the documents are as follows:

Assignor - Equilease Corporation, a New York Corporation, (as successor in interest to Unilease No. 15, Inc.) Liberty Lane, Hampton, N.H. 03842

Assignee - SH Leasing Inc., a Delaware Corporation, c/o MGC Leasing Corporation, 666 Fifth Avenue, New York, New York 10103

Western Co-Operative Fertilizers (U.S.) Inc.,
11111 Barlow Trail S.E., Calgary,
Alberta T2P 2N1, Canada

C. O. McGee
Timothy G. Sullivan

Noreta R. McGee, Secretary
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March 21, 1989

Western Co-Operative Fertilizers Limited,
11111 Barlow Trail S.E., Calgary,
Alberta T2P 2N1, Canada

A description of the equipment covered by the document
follows:

One hundred fifty (150) covered hopper cars marked and
numbered MBFX 4600 to MBFX 4749, complying with
Manufacturer's Specifications HL3-47A.

A fee of \$13 is enclosed. Please return the original
and any extra copies not needed by the Commission for recordation
to:

Judith L. Riddle, Esq.
Dechert Price & Rhoads
3400 Centre Square West
1500 Market Street
Philadelphia, PA 19102

A short summary of the document to appear in the index
follows:

Assignment and Assumption Agreement among Equilease
Corporation (assignor), Liberty Lane, Hampton, N.H.
03842 and SH Leasing Inc. (assignee), c/o MGC Leasing
Corporation, 666 Fifth Avenue, New York, N.Y. 10103.
Western Co-Operative Fertilizers (U.S.) Inc. (Lessee)
and Western Co-Operative Fertilizers Limited (WCFL)
dated March 22, 1989 and covering one hundred fifty
(150) covered hopper cars marked and numbered MBFX 4600
to MBFX 4600 to MBFX 4749, and connected to the
following primary documents:

- (1) Equipment Lease dated as of May 1, 1979 between
Unilease No. 17, Inc. ("Lessor") and Western
Co-Operative Fertilizers Limited ("Lessee").
Recordation No. 10637. Filed on July 18, 1979.

Noreta R. McGee, Secretary

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March 21, 1989

- (2) Security Agreement - Trust Deed dated as of May 1, 1979 from Unilease No. 17, Inc. to the Connecticut Bank and Trust Company. Recordation No. 10627. Filed on July 18, 1979.

Very truly yours,



Robert Ginzberg
Vice President

RG:yl
Enclosure

Interstate Commerce Commission
Washington, D.C. 20423

3/23/89

OFFICE OF THE SECRETARY

Judith L. Riddle, Esq.
Dechert Price & Rhoads
3400 Centre Square West
1500 Market St.
Phila. PA. 19102

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/23/89 at 2:20pm, and assigned recordation number(s). 10637-A

Sincerely yours,

Neta L. McGee

Secretary

Enclosure(s)

COPY

RECORDATION NO.

10637-A
FILED 1425

MAR 23 1989 -2 20 PM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT AND ASSUMPTION AGREEMENT

This is an Assignment and Assumption Agreement (this "Agreement") dated March 23, 1989 among SH Leasing, Inc., a Delaware corporation ("SH Leasing"), Equilease Corporation, a New York corporation ("Equilease"), as successor in interest to Unilease No. 17, Inc. ("Unilease"), Western Co-operative Fertilizers (U.S.) Inc. (the "Lessee") and Western Co-operative Fertilizers Limited ("WCFL").

BACKGROUND

Unilease and Lessee entered into an Equipment Lease agreement dated as of May 1, 1979 (the "Lease"), whereby Unilease agreed to lease 150 covered hopper cars, as more fully described therein (the "Equipment"), to the Lessee. In conjunction with the Lease, Unilease entered into the agreements set forth on Schedule 1 hereto (the "Lease Agreements"). Equilease is the successor in interest to Unilease under the Lease Agreements.

Equilease wishes to sell the Equipment and related assets to SH Leasing and SH Leasing is willing to purchase the Equipment and related assets pursuant to the terms of an Asset Purchase Agreement dated as of January 27, 1989 (the "Asset Purchase Agreement") between Equilease and SH Leasing and the Lessee's consent is required for such purchase to be accomplished.

NOW, THEREFORE, intending to be legally bound, the parties hereto agree as follows:

Section 1. Equilease hereby assigns to SH Leasing all of its right, title and interest in and to the Equipment and the Lease Agreements and all benefits due and to become due thereunder arising from and after the closing under the Asset Purchase Agreement.

Section 2. SH Leasing hereby accepts such assignment and assumes all of the duties and obligations of Equilease under the Lease Agreements arising from and after the closing under the Asset Purchase Agreement with respect to the assets relating to such Lease Agreements, and agrees and confirms that it shall be deemed to be a party to such Lease Agreements from and after the date hereof and agrees to be bound by all of the terms of and to undertake all of

the obligations of Equilease thereunder from and after the date hereof.

Section 3. Equilease for the benefit of SH Leasing and the other parties to the Lease Agreements hereby confirms that it shall not be released from any of its obligations or liabilities arising or accruing under the Lease Agreements or with respect to the Equipment prior to the closing of the Asset Purchase Agreement.

Section 4. Equilease and SH Leasing agree to indemnify and hold each other harmless with respect to obligations under the Lease Agreements and the Equipment pursuant and subject to the terms set forth in the Asset Purchase Agreement.

Section 5. As an inducement to the Lessee and WCFL to enter into this Agreement and to furnish the consent being separately granted today, each of SH Leasing and Equilease individually and not jointly represents and warrants on behalf of itself (but not the other) to Lessee and WCFL as follows:

(a) It is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all requisite power and authority to own or lease its properties and assets as now owned or leased and to carry on its business as and where now being conducted (and, in the case of SH Leasing, as contemplated to be owned or leased and as contemplated to be conducted in light of the Asset Purchase Agreement).

(b) The execution, delivery and performance of this Agreement and the Asset Purchase Agreement have been duly authorized by all necessary corporate action on its part. Each of this Agreement and the Asset Purchase Agreement has been duly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms.

(c) The execution and delivery of this Agreement and the Asset Purchase Agreement do not, and the consummation of the transactions contemplated by this Agreement and the Asset Purchase Agreement and compliance with the terms, conditions and provisions hereof and thereof by it will not (i) contravene any provision of its articles of incorporation or bylaws; (ii) conflict with or result in a breach of or constitute a default (or an event which might, with the passage of time or the giving of notice or both, constitute a default) under any indenture, mortgage, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its assets may be bound or affected, or any judgment or

order of any court or governmental department, commission, board, agency or instrumentality, domestic or foreign, or conflict with or violate any applicable law, rule or regulation; (iii) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its assets or give to others any interests or rights therein; (iv) result in the maturation or acceleration of any liability or obligation of it or give others any right to declare or cause any such maturation or acceleration; or (v) result in the termination of or loss of any right, or give others any right to cause such a termination or loss under any agreement or contract to which it is a party or by which it or its assets may be bound or affected.

(d) There are no actions, suits, investigations, or proceedings pending or, to the best of its knowledge, threatened against, affecting or involving it, this Agreement or the Asset Purchase Agreement at law or in equity, by or before any court or governmental department, agency or instrumentality.

(e) No consent, approval or authorization of, or registration or filing with, any person, including any governmental authority or other regulatory agency, is required in connection with the execution and delivery of this Agreement or the Asset Purchase Agreement or the consummation of the transactions contemplated hereby or thereby.

(f) Except as noted below, the Asset Purchase Agreement, this Agreement and the Guaranty being given by SH Leasing's ultimate corporate parent, Golodetz Corporation (the "Guaranty"), are in full compliance with the following (with capitalized terms not previously defined having the meanings set forth on Schedule 1 hereto): (i) Section 3.6(e) of the Participation Agreement (regarding transfers of Ownership Interest, as defined therein); (ii) Section 16 of the Lease (regarding assignment); (iii) Section 2.10 of the Security Agreement (regarding sales of assets); (iv) all other applicable provisions of the Lease Agreements and (v) immediately following the consummation of the transactions contemplated by the Asset Purchase Agreement, this Agreement and the Guaranty is, SH Leasing shall not be in default under any of the provisions of any of the Lease Agreements. Notwithstanding the foregoing, it is acknowledged that on the date hereof, SH Leasing is not an "institutional investor" within the meaning of Section 3.6(e) of the Participation Agreement.

Section 6. As a further inducement to Lessee and WCFL, each of SH Leasing and Equilease shall cause to be furnished to Lessee and WCFL on the date hereof an opinion

of its respective counsel, in form and substance satisfactory to the Lessee and WCFL, substantially identical to those opinions being delivered by such counsel under the Asset Purchase Agreement.

Section 7. SH Leasing hereby acknowledges that it has received a copy of the Memorandum of Agreement dated as of August 15, 1987 between Lessee and PLM Railcar Management Services, Inc. ("PLM"), as amended by Addendum I thereto, providing for the sublease of the then existing Equipment by Lessee to PLM (the "PLM Sublease") and SH Leasing hereby irrevocably consents to the PLM Sublease. SH Leasing acknowledges that from time to time prior to the execution and delivery of the PLM Sublease, Equilease or its predecessor furnished consents or waivers in respect of Equipment subleasing by the Lessee and SH Leasing irrevocably waives any objection to any such prior Equipment sublease.

Section 8. Upon request by the Lessee, SH Leasing and Equilease jointly and severally agree to reimburse the Lessee promptly for all of Lessee's reasonable costs and expenses (including the reasonable fees and disbursements of its counsel) incurred in connection with its consideration of this Agreement, the Guaranty and the granting of its consent to the purchase contemplated by the Asset Purchase Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption Agreement to be duly executed by their respective duly authorized officers as of the day and year first above written.

SH LEASING, INC.

By: 

Title: President

EQUILEASE CORPORATION

By: 

Title: Vice Pres.

WESTERN CO-OPERATIVE
FERTILIZERS (U.S.) INC.

By: 

Title: Treasurer

WESTERN CO-OPERATIVE
FERTILIZERS (U.S.) INC.

By: 

Title: President

WESTERN CO-OPERATIVE
FERTILIZERS LIMITED

By: 

Title: Chief Financial
Officer

WESTERN CO-OPERATIVE
FERTILIZERS LIMITED

By: 

Title: President/Chief Executive
Officer.

Schedule 1
to
Assignment and Assumption Agreement

1. Participation Agreement dated as of May 1, 1979 among Western Co-operative Fertilizers (U.S.) Inc., Western Co-operative Fertilizers Limited, Unilease No. 17, Inc., Aetna Life Insurance Company and The Connecticut Bank and Trust Company (the "Participation Agreement").
2. Purchase Order Assignment dated as of May 1, 1979 between Unilease No. 17, Inc. and Western Co-operative Fertilizers (U.S.) Inc.
3. Equipment Lease dated as of May 1, 1979 between Unilease No. 17, Inc. and Western Co-operative Fertilizers (U.S.) Inc.
4. Security Agreement-Trust Deed dated as of May 1, 1979 from Unilease No. 17, Inc. to The Connecticut Bank and Trust Company (the "Security Agreement").
5. Guaranty Agreement dated as of May 1, 1979 between Unilease No. 17, Inc. and Western Co-operative Fertilizers Limited.
6. 10-5/8% Secured Notes issued to the Note Purchaser in 1979 in aggregate principal amount not exceeding \$4,500,000 under and pursuant to the Participation Agreement.

Corporate Form of Acknowledgement

State of New York

County of New York, ss:

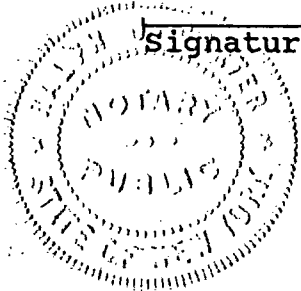
On this 20th day of March, 1989 before me personally appeared, James A. Kaylor, to me personally known, who being by me duly sworn, says that (s)he is the President of SH Leasing, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

Ralph J. Carter

Signature of Notary Public

RALPH J. CARTER
Notary Public, State of New York
No. 24-4860483
Qualified in Kings County
Certificate Filed in New York County
Commission Expires Dec. 15, ~~1988~~ 1990



Corporate Form of Acknowledgement

State of New York

County of New York, ss:

On this 20th day of March, 1989 before me personally appeared, DAVID J. HERROD, to me personally known, who being by me duly sworn, says that (s)he is the VICE PRESIDENT of Equilease Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]



Signature of Notary Public

RALPH J. CARTER
Notary Public, State of New York
No. 24-4880483
Qualified in Kings County
Certificate Filed in New York County
Commission Expires Dec. 15, 1990

Corporate Form of Acknowledgement


Country of Canada

Province of Alberta

City of Calgary ,ss:

On this 22 day of March, 1989 before me personally appeared, KONRAD H. KOMITSCH, to me personally known, who being by me duly sworn, says that (s)he is the PRESIDENT & CHIEF EXECUTIVE OFFICER of Western Co-Operative Fertilizers Limited, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by due authority, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

 GORDON S. GRIFFITHS
Signature of Notary Public

NOTARY PUBLIC IN AND FOR THE PROVINCE OF ALBERTA

Corporate Form of Acknowledgement


Country of Canada

Province of Alberta

City of Calgary ,ss:

On this 22 day of March, 1989 before me personally appeared, MURAD N. HIRJI, to me personally known, who being by me duly sworn, says that (s)he is the CHIEF FINANCIAL OFFICER of Western Co-Operative Fertilizers Limited, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by due authority, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

 GORDON S. GRIFFITHS
Signature of Notary Public

NOTARY PUBLIC IN AND FOR THE PROVINCE OF ALBERTA

Corporate Form of Acknowledgement


Country of Canada

Province of Alberta

City of Calgary , ss:

On this 22 day of March, 1989 before me personally appeared, MURAD N. HIRJI, to me personally known, who being by me duly sworn, says that (s)he is the TREASURER of Western Co-Operative Fertilizers (U.S.) Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by due authority, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

 GORDON S. GRIFFITHS
Signature of Notary Public

NOTARY PUBLIC IN AND FOR THE PROVINCE OF ALBERTA

Corporate Form of Acknowledgement

Country of Canada

Province of Alberta

City of Calgary ,ss:

On this 22 day of March, 1989 before me personally appeared, KONRAD H. KOMITSCH, to me personally known, who being by me duly sworn, says that (s)he is the PRESIDENT of Western Co-Operative Fertilizers (U.S.) Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by due authority, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

 GORDON S. GRIFFITHS
Signature of Notary Public

NOTARY PUBLIC IN AND FOR THE PROVINCE OF ALBERTA

District of Columbia
City of Washington, ss:

On this 23rd day of March, 1989 I compared the original Assignment and Assumption Agreement among SH Leasing, Inc., Equilease Corporation, Western Co-operative Fertilizers (U.S.) Inc., and Western Co-operative Fertilizers Limited and the attached photocopy of said agreement. I hereby certify that the photocopy is a true and correct copy of the original Assignment and Assumption Agreement.

[Seal]



Signature of Notary Public

TERESA L. PAULK

My Commission Expires June 14, 1993

